



U.S. ELECTION ASSISTANCE COMMISSION
1225 NEW YORK AVENUE, N.W., SUITE 1100
WASHINGTON, D.C. 20005

OFFICE OF THE CHAIRMAN

January 12, 2007

Dr. William Jeffrey
Director
National Institute of Standards and Technology
100 Bureau Drive, Stop 1000
Gaithersburg, MD 20899-1000

RE: National Institute of Standards and Technology (NIST) Recommendation of Laboratories for Election Assistance Commission (EAC) Accreditation

Dear Dr. Jeffrey:

As the date of NIST's first laboratory recommendations draws near (January 18, 2007), I thought it would be beneficial to discuss two important matters. As you know, HAVA mandates that NIST evaluate independent laboratories and recommend to the EAC those it believes are qualified to test voting system to Federal standards. NIST is using its National Voluntary Laboratory Accreditation Program to fulfill this important responsibility. As such, the EAC is interested in (1) coordinating the means by which NIST will communicate its recommendation and (2) gaining a better understanding of NIST's policies related to the release of NVLAP information.

We are pleased that NIST is lending its considerable expertise to this process. NIST's NVLAP program is a well respected authority on laboratory accreditation. While we are confident in our reliance on the NVLAP process, we believe it is important for the EAC and NIST to communicate to the public the efforts taken to evaluate laboratories under the NVLAP program. I believe that NIST's written recommendation to the EAC is the perfect opportunity to provide this information to the public. These recommendations should provide a brief, plain language description of the NVLAP process. This summary could succinctly identify what NVLAP looked at and reviewed during its laboratory assessment. While this information may be available in NIST handbooks or other policy documents, such material is not always readily understandable to individuals without a technical background. I am sure that you will agree that making such information available in a format that is understandable to the widest audience will serve to increase voter confidence. We are happy to assist in this process.

Additionally, the EAC is interested in understanding NIST's confidentiality policy and its position regarding the release of information gathered during the NVLAP process. As you know, the EAC is working to make its Voting System Certification Program as transparent as possible. Our policies on this matter may be found in Chapter 10 of our Voting System Testing and Certification Program Manual. The public has expressed its desire for this policy. Given this fact, we expect that the public will be

similarly interested in NIST practices. It would assist the EAC greatly, as the agency ultimately responsible for laboratory accreditation, to have a better understanding of the NIST process. What is NIST's policy regarding the release of NVLAP information? What information will be made available to the public? Will any information be affirmatively published? What is the effect of your confidentiality provision noted in your handbook (NIST Handbook 150)? How does the statute regarding cooperative research and development agreements cite in your manual (15 U.S.C §3710) apply to the program at hand? Finally, it would also be helpful to understand the reasons behind your policies. If a certain class of information is not released, what is the basis for this policy?

We know that NIST shares the EAC's commitment to improving voting systems, and the means by which they are tested and certified. Increasing coordination of the EAC and NIST in this arena will further serve these goals. Ultimately, it is important that the EAC fully understand NVLAP policy as the agency ultimately responsible and accountable to the public for laboratory accreditation under HAVA. If you have any questions concerning the above, please contact me.

A handwritten signature in cursive script, reading "Donetta Davidson".

Donetta Davidson
Chair

Cc: Mary Saunders, NVLAP
Mark W. Skall, NIST